

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions in the Telecommunications)	
Act of 1996)	
)	
Interconnection between Local Exchange)	CC Docket No. 95-185
Carriers and Commercial Mobile Radio)	
Service Providers)	

COMMENTS

The National Exchange Carrier Association, Inc. (NECA) submits these comments in response to the Commission's *Public Notice* in the above-captioned proceeding.¹ The Commission requests interested parties to refresh the record regarding any outstanding petitions for reconsideration filed with respect to the *First Report and Order* in this proceeding.²

On September 30, 1996, NECA filed a *Petition for Reconsideration*³ of the *First Report and Order* (copy attached as Appendix I) that requested the Commission to clarify the interrelationships between its newly-adopted interconnection rules implementing section 251 of the Act and existing accounting, separations, universal service and access charge rules

¹ See Parties Asked to Refresh Record Regarding Reconsideration of Rules Adopted in 1996 in *Local Competition* Docket, CC Docket 96-98, *Public Notice*, 66 Fed. Reg. 38611 (2001) (*Public Notice*).

² Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *First Report and Order*, CC Docket Nos. 96-98 and 95-185, 11 FCC Rcd 15499 (1996) (*First Report and Order*).

³ See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, *Petition for Reconsideration* filed by National Exchange Carrier Association, Inc., September 30, 1996 (*Petition for Reconsideration*).

Specifically, the petition requested clarification as to the manner in which incumbent local exchange carriers should book revenues from unbundled network elements (UNEs), and clarification as to whether costs of providing interconnection facilities should continue to flow through Part 36 jurisdictional separations rules or be removed prior to separations. Clarification was also requested as to how NECA should administer data reporting requirements under the Part 36 high cost fund rules and how minutes of use associated with end office switching for unbundled element services should be treated in the development of dial equipment minutes for allocation of LEC switching investment.

To date, no action has been taken with respect to NECA's *Petition for Reconsideration*. The Commission did, however, initiate a separations reform proceeding in October 1997⁴ with the stated goal of "reviewing comprehensively our Part 36 jurisdictional separations procedures to ensure that they meet the objectives of the 1996 Act, and to consider changes that may need to be made to the jurisdictional separations process in light of changes in the law, technology, and market structure of the telecommunications industry."⁵

⁴ See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, *Notice of Proposed Rulemaking*, 12 FCC Rcd 22120 (1997).

⁵ *Id.* at ¶ 2.

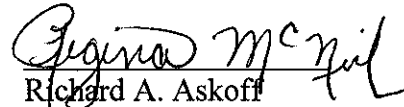
This year, the Commission took its first step "towards reforming outdated regulatory mechanisms that are out of step with today's rapidly-evolving telecommunications marketplace" by implementing a separations freeze.⁶ However, this is only an interim step that does not resolve the underlying issues raised by NECA's *Petition for Reconsideration*.

Respectfully submitted,

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⁶ See Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, CC Docket No. 80-286, *Report and Order*, 66 Fed. Reg. 33202 at ¶ 1 (2001).

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	FCC 96-325
)	
Implementation of the Local Competition)	CC Docket. No. 96-98
Provisions in the Telecommunications)	
Act of 1996)	
)	
Interconnection between Local Exchange)	CC Docket No. 95-185
Carriers and Commercial Mobile Radio)	
Service Providers)	

PETITION FOR RECONSIDERATION

The National Exchange Carrier Association, Inc. (NECA)¹ files herein this petition for reconsideration of the Commission's Interconnection Order, released August 8, 1996.² NECA highlights the need for clarification of the interrelationships between the new interconnection rules implementing section 251 of the Act on the one hand, and the existing accounting, separations, universal service and access charge rules on the other. NECA limits this petition to technical issues affecting its administration of Commission programs and its role in assuring rules compliance. Since numerous other important interconnection issues will be reviewed by the

¹ NECA is a not-for-profit association that is responsible, under the Commission's rules, for the preparation of access charge tariffs on behalf of over 1,200 telephone companies that do not file separate tariffs; and for the collection and distribution of access charge revenues. *See* 47 C.F.R. §§ 69.603 and 64.604. NECA also administers the interstate Universal Service and Lifeline Assistance programs and the interstate Telecommunications Relay Services (TRS) fund. *See id.*

² Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, CC Docket Nos. 96-98 and 95-185, FCC 96-325 (rel. August 8, 1996) (Interconnection Order).

courts in response to the petitions filed by other parties, NECA does not raise them here.³

The Interconnection Order raises practical implementation questions with respect to various existing rules. The Commission concludes “that the [Telecommunications Act of 1996 (“1996 Act”)] creates a new jurisdictional regime outside of the current separations process” and that “unbundled loop charges paid by new entrants under section 251(c)(3) will therefore recover the unseparated cost of the loop . . .”⁴ When a carrier purchases a local loop for the purpose of providing interexchange services or exchange access, therefore, incumbent local exchange carriers (LECs) may not recover the subscriber line charge (SLC) because the SLC represents part of the interstate costs.⁵ The Commission further adds that these unbundled loop charges cannot be based “directly on the costs reflected in the regulated books of account . . .”⁶

Incumbent LECs account for their costs using Part 32 accounting rules; allocate their regulated costs between the intrastate and interstate jurisdictions using Part 36 separations rules;

³ See e.g., *Louisiana PSC v. FCC, Petition for Review*, Action No. 96-60589 (5th Circ. 1996); *Cincinnati Bell Telephone Co. v. FCC, Petition for Review*, Case No. 96-xxxx, (6th Circ. 1996); *NARUC v. FCC, Petition for Review*, No. 96-1303 (D.C. Circ. 1996); *NYNEX, Motion for Expedited Consideration and for a Briefing Schedule*, Case Nos. 96-3321, 96-3430, *et al.* (8th Circ. 1996).

⁴ Interconnection Order at ¶ 364. The Commission concluded that “Congress created a regulatory system that differs significantly from the dual regulatory system it established in the 1934 Act. That Act generally gave jurisdiction over interstate matters to the FCC and over intrastate matters to the states. The 1996 Act alters this framework, and expands the applicability of both national rules to historically intrastate issues, and state rules to historically interstate issues.” *Id.* at ¶ 83.

⁵ *Id.* at ¶ 364. Otherwise LECs would “enjoy double recovery.” *Id.*

⁶ See *id.* at ¶ 705.

and recover their interstate costs based on elements defined in Part 69 access rules.⁷ The Interconnection Order does not fully address these rules.⁸ For NECA and incumbent LECs to ensure rules compliance, the interaction between Commission requirements in the Interconnection Order and other existing Commission rules must be explained.⁹

NECA respectfully requests that, on reconsideration, the Commission address specific Part 32, 36, and 69 rule issues. Section 32.4999 (f), for example, requires jurisdictional subsidiary records for all revenue accounts, except for Network Access Services Revenues where separate accounts have been established for Federal and state access revenues.¹⁰ The Commission should clarify into which Part 32 account(s) revenues from unbundled network elements, provided via interconnection agreements, should be booked. After considering suggestions from interested parties, the Commission may determine, for example, that these revenues could be booked into account 5240 Rent Revenue.¹¹

With respect to Part 36 rules, the Commission should address whether or not section 251

⁷ See 47 C.F.R. Parts 32, 36 and 69.

⁸ The Commission does reference Part 69 rules, for example, in new section 51.515 but this reference like others does not address the issues raised on this petition.

⁹ For example, should an incumbent local exchange carrier implement unbundled network element services under local interconnection agreements on October 1, 1996, it is not clear from the Interconnection Order how these carriers and NECA would account for data consistent with both the Order requirements and other existing rules still applicable to incumbent LECs.

¹⁰ 47 C.F.R. Section 32.5080 prescribes the accounting for exchange access service revenues.

¹¹ This is the account to which revenues from rents, such as pole attachment revenues, are currently booked. 47 C.F.R. Section 32.5240. This would, however, still raise the question of the jurisdictional subsidiary record requirement in 32.4999(f). Also, It is NECA's understanding that other parties may suggest other accounts worthy of consideration.

interconnection costs still flow through Part 36 jurisdictional allocations or whether they must be removed prior to separations. If the Commission intends for section 251 interconnection costs to be removed prior to separations, then it should clarify on what cost basis they should be removed. Since current rules utilize fully distributed costs and the Interconnection Order requires total element long-run incremental costs as the basis for pricing unbundled network elements, the Commission should clarify how the unbundled element costs should be treated with respect to Part 36 separations rules.¹² For example, one method would be to deduct from total costs, subject to separations, an amount equal to unbundled network element revenues.

Part 36 Subpart F prescribes current Universal Service Fund requirements including data reporting and expense adjustment calculations. Because incumbent LECs will likely implement interconnection agreements prior to the Commission revising its current universal service rules, the Commission needs to address how NECA is to administer any associated data reporting, *e.g.* quarterly updates and expense payments, in the interim. NECA also requests guidance as to how the minutes associated with end office switching for unbundled element services should be treated in the development of dial equipment minutes for allocation of LEC switching investment.¹³

¹² Historically, a Joint Board process is used to modify Part 36 requirements.

¹³ 47 C.F.R. Section 36.125 prescribes the interstate allocation of local switching costs based on dial equipment minutes (DEM). The treatment of unbundled switching element minutes should be consistent with the treatment of the investment to which the DEM factor is applied.

In conclusion, NECA encourages the Commission to seek additional comments from interested parties addressing the important technical implementation issues discussed herein. Based on such additional comments, and on reconsideration of its Interconnection Order, NECA respectfully requests the Commission to provide guidance on the technical issues affecting NECA's administration of Commission programs and NECA's role in assuring rules compliance as discussed herein.

Respectfully submitted,

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September 30, 1996

CERTIFICATE OF SERVICE

I hereby certify that copy of the Comments was served this 23rd day of August 2001, by electronic delivery or first class mail, to the persons listed below.

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